



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/290,006	04/11/1999	WILLIAM PAUL WANKER	001	9354

7590

08/22/2006

Sean M. Fitzgerald, Esq.  
3182 Campus Drive, #342  
San Mateo, CA 94403-3123

EXAMINER
----------

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
----------	--------------

2168

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/290,006	<b>Applicant(s)</b> WANKER, WILLIAM PAUL	
	<b>Examiner</b> HUNG Q. PHAM	<b>Art Unit</b> 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,10-16,20-23,27,28,30 and 36-47 is/are pending in the application.
- 4a) Of the above claim(s) 10-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,14-16,20-23,27,28,30 and 36-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/24/05 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

- Applicants' arguments with respect to the rejection of claims 1, 5, 10 and 36 under 35 U.S.C. § 112, second paragraph, have been fully considered and are persuasive in view of the amendment. The rejection of claims 1, 5, 10 and 36 under 35 U.S.C. § 112, second paragraph, has been withdrawn.

- Applicant's arguments with respect to the rejection under 35 U.S.C. § 103 have been fully considered but they are not persuasive.

As argued by applicants:

(a) At page 8 with respect to the Geller reference:

*... Nowhere within Geller is there any mention of applying an entered weight to non-expert ratings.*

*... What Geller does not disclose, is using a weighting system to compare data on merchants. This is a critical distinction with the claimed invention.*

(b) At pages 9 and 10 with respect to claim 1:

*To clarify this distinction over the Geller reference and the BizRate.com reference, the claims have been amended to specifically recite merchant data in a manner that could not be interpreted to cover survey information, opinion information, or "evaluation ratings."*

*For example, Claim 1 has been amended to include "wherein the merchant comparison information data includes non-opinion data from at least two categories from: price category, product availability category, product inventory category, time to deliver product category, payment terms category, payment method category, merchant creditworthiness category, and inventory category information" thus distinguishing the present claimed invention from the opinion systems of BizRate.com and Geller.*

(c) At page 10 with respect to claim 14:

*Claim 14 has been amended to point out that "the merchant data entry values specifying non-opinion data" thus distinguishing the present claimed invention from the opinion systems of*

*BizRate.com and Geller.*

- (d) At page 10 with respect to claim 36:

*Claim 36 has been amended to specify that "the merchant comparison information excluding opinion data or survey result data" thus distinguishing the present claimed invention from the opinion systems of BizRate.com and Geller.*

- (e) At page 10 with respect to claim 39

*Claim 39 has been amended to specify that "the retrieved merchant comparison information excludes information obtained from surveys or specifying the opinion of a person" thus distinguishing the present claimed invention from the opinion systems of BizRate.com and Geller.*

- (f) At page 10 with respect to claim 1 and 14:

*Additionally, claims 1 and 14 has been amended to emphasize this distinction between consumer preferences and expert opinions, as well as non-opinion based and opinion-based data, by noting that when the consumer enters a set of weighting factors, "the entering occurs prior to receiving information related to a user specified product." (claim 14, as amended) This further contrasts with Geller which asks questions after receiving information relating to a product of interest to the consumer.*

Examine respectfully disagrees.

- (a) In response to applicants' arguments with respect to Geller at page 8 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *nowhere within Geller is there any mention of applying an entered weight to non-expert ratings*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Art Unit: 2168

Additionally, Geller reference is a secondary reference. The primary reference for the rejection under 35 U.S.C. § 103 is the BizRate reference, which disclosed *a weighting system to compare data on merchants* (BizRate, pages 7 and 8).

(b) As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. Each aspect or RATING DIMENSION is graded from 1 to 10. Thus, "RATING DIMENSIONS" as in pages 13 and 14 is *the merchant comparison information data*. The "RATING DIMENSIONS" includes *non-opinion data from two categories: product availability category and time to deliver product category*, e.g., "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" include *non-opinion data* such as arrival date, in-stock product.

(c) As discussed above, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. Each aspect or RATING DIMENSION is graded from 1 to 10. Thus, in order to

Art Unit: 2168

customize the rating, *merchant specific information about the merchants*, e.g., "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" is retrieved. "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" include *a plurality of merchant data entry values*, e.g., Y/N or 1-10 grading. The Y/N or 1-10 grading *specifies non-opinion data* such as arrival date, in-stock product.

(d) As discussed above, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. Each aspect or RATING DIMENSION is graded from 1 to 10. Thus, in order to customize the rating, *merchant specific information about the merchants*, e.g., "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" is retrieved. "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" include *a plurality of merchant data entry values*, e.g., Y/N or 1-10 grading. The Y/N or 1-10 grading *specifies non-opinion data* such as arrival date, in-stock product.

(e) As discussed above, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each

Art Unit: 2168

Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. Each aspect or RATING DIMENSION is graded from 1 to 10. Thus, in order to customize the rating, *merchant comparison information data is retrieved from a database, e.g., "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY".* The customized "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" will be graded by the user own weight and does not relate to previous opinion or survey data. In different words, the customized "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" exclude *survey result data or information obtained from surveys.*

(f) As discussed above, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). Thus, by customizing the user rating, *the set of weighting factors is entered prior to receiving information related to a potential customer purchase.*

- In response to applicants' arguments with respect to Geller reference at pages 11-14 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *the weights disclosed in Geller help consumers select features, and have no relevance to merchant information such as credit history, years in business or the availability of delivery within a specified time... The weighting factors of the present invention, as claimed, represent a percentage importance of a category or merchant information to be used in calculating a merchant ranking... Page 11 of BizRate.com does not disclose entering the ability to change the importance of categories...*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations

Art Unit: 2168

from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In light of the foregoing arguments, the 35 U.S.C. § 103 is hereby sustained.

### ***Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-7, 14-16, 20-23, 27, 28, 30 and 36-47 in the reply filed on 11/21/05 is acknowledged.

### ***Drawings***

The drawings were received on 01/24/05. These drawings are acknowledged.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: *non-opinion data* as in claims 1, 14 and 36, *survey result data* in claim 36.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter**



Art Unit: 2168

**which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

As in claim 1, the claimed limitation, *entering a set of weighting factors prior to receiving information related to a potential customer purchase*, was not described in the specification.

As in claim 14, the claimed limitation, *entering a set of weighting factors, wherein the entering occurs prior to receiving information relating to a user specified product*, was not described in the specification.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

As in claim 14, the claimed limitation *the user specified product*, at line 18, references to a plurality of "user specified products", e.g., a *user specified product* at line 3 and another *user specified product* at line 10. It is unclear which *user specified product* is being referenced.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3, 5-7, 14-16, 20-23, 27-28, 30 and 36-47 are rejected under 35 U.S.C.**

**103(a) as being unpatentable over BizRate**

**[<http://web.archive.org/web/19981205082910/http://www.bizrate.com/>] in view of Geller et al. [USP 6,236,990 B1].**

Regarding claim 1, BizRate is an online service website that provides consumers with information of a product. The BizRate method for ranking merchants comprising:

*receiving information related to a potential consumer purchase* (As described at page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as the step of *receiving information related to a potential consumer purchase*);

*receive a plurality of merchant comparison information data for a plurality of merchants capable of completing the potential consumer purchase, the merchant comparison information data organized into a plurality of categories, wherein the merchant comparison information data includes non-opinion data from at least two categories from: price category, product availability category, product inventory category, time to deliver product category, payment terms category, payment method category, merchant creditworthiness category, and inventory category information* (As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for

Art Unit: 2168

each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. Each aspect or RATING DIMENSION is graded from 1 to 10. Thus, "RATING DIMENSIONS" data as in pages 13 and 14 is *the merchant comparison information data*. The "RATING DIMENSIONS" data *includes non-opinion data from two categories: product availability category and time to deliver product category*, e.g., "RATING DIMENSION: PRODUCT AVAILABILITY" and "RATING DIMENSION: ON-TIME DELIVERY" include *non-opinion data* such as arrival date, in-stock product);

*entering a set of weighting factors prior to receiving information related to a potential customer purchase, the weighting factors corresponding to the categories of merchant comparison information data* (As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights as *a set of weighting factors* for each of the 10 aspects of shopping as *the categories of merchant comparison information data* and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The user own weights as *a set of weighting factors* are entered prior to receiving the sorted list of merchants as *information related to a potential customer purchase*);

*calculating an aggregate score for the merchant and ranking merchants based on the merchant aggregate score* (The CUSTOMIZED RATING allows the user to get a personally score and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features)).

BizRate does not explicitly teach the steps of *calculating a respective merchant data weight resultant value by multiplying the weighting factor against the merchant comparison information data of the corresponding merchant data category*, and *summing the calculated merchant data weight resultant values* to get the personally score.

Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result as *respective merchant data weight resultant value by multiplying the user own weight as weighting factor against* the evaluation rating for each attribute of each RATING DIMENSION as *merchant comparison information data of the corresponding merchant data category*, and personally score as *aggregate score of the merchant* as illustrated on pages 3-5 is calculated by *summing* all interim results as *calculated merchant data weight resultant value*.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 14, BizRate is an online service website that provides consumers with information of a product. The BizRate method for ranking merchants comprising:

*receiving information related to a user specified product* (As described at page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as the step of *receiving information related to a user specified product*);

*retrieving a list of merchants from a database, wherein the list of merchants includes merchants offering the user specified product* (BizRate, page 3);

*retrieving merchant specific information about the merchants in said list of merchants, said merchant specific information including a plurality of merchant data entry values, the merchant data entry values specifying non-opinion data* (As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. Each RATING DIMENSION *including a plurality of merchant data entry values*, e.g., was the ordered product in stock (Y/N), if not, how soon will the product be available (1-3), and *the merchant data entry values specifying non-opinion data* such as arrival date, in-stock product);

*entering a set of weighting factors, wherein the entering occurs prior to receiving information related to a user specified product and applying weighting factors to said merchant specific information* (As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights as *a set of weighting factors* for each of the 10

Art Unit: 2168

aspects of shopping as *applying weighting factors to said merchant specific information* and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The user own weights as *a set of weighting factors are entered prior to receiving the sorted list of merchants as information related to a user specified product*);

*ranking said list of merchants carrying the user specified product based on the calculated merchant aggregate scores* (The CUSTOMIZED RATING allows the user to get a personally score and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features)).

BizRate does not explicitly teach *multiplying at the data entry value, for a plurality of data entry values, by at least one weighting factor from set of weighting factors to calculate a merchant data weight resultant value and summing a plurality of merchant data weight resultant values* to calculate personally scored.

Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Geller, Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to

Art Unit: 2168

produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure by including evaluation rating for Price, Product Selection, Product Information, and Website Aesthetics... to calculate an interim result as *merchant data weight resultant value* by multiplying the user own weight as *weighting factor* against the evaluation rating for each attribute of each RATING DIMENSION as *merchant data entry value*, and *merchant aggregate score* as illustrated on pages 3-5 is *calculated* by *summing* all interim results as *merchant data weight resultant values*.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 36, BizRate teaches a method of ranking merchants in an online comparison system comprising:

*entering a set of weighting factors, the weighting factors corresponding to categories of merchant comparison information, wherein the weighting factor is entered as a numerical value and represents the relative importance given the corresponding merchant comparison information in ranking the merchants, the merchant comparison information excluding opinion data or survey result data* (As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. As seen, each RATING DIMENSION includes *merchant comparison information*, e.g., was the product you ordered in stock (Y/N), if not, how soon

Art Unit: 2168

, will the product be available (1-3). The RATING DIMENSIONS of pages 13 and 14 indicate *categories of merchant comparison information, is a including a plurality of merchant data entry values, e.g., was the ordered product in stock (Y/N), if not, how soon will the product be available (1-3), and the merchant comparison information excluding previous survey result data. The user own weight for each category as disclosed by BizRate indicates a set of weighting factors, the weighting factors corresponding to categories of merchant comparison information);*

*entering a query specifying a product or service* (Page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information under category Apparel > Accessories as in page 3);

*retrieving merchant comparison information data from a database, the retrieved merchant comparison information data corresponding to the entered query* (BizRate, Pages 3 and 4);

*calculating a merchant overall score and ranking the merchants according to the calculated merchant overall score* (The CUSTOMIZED RATING allows the user to get a personally score as *merchant overall score*, and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features)).

BizRate does not explicitly teach the step of *multiplying a weighting factor by a corresponding data value from the retrieved merchant information to calculate a weighted category score, and summing the weighted category scores to calculate a personally score as merchant overall score.*

Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a



Art Unit: 2168

product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Geller, Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result as *weighted category score* by *multiplying* the user own weight as *weighting factor* by the evaluation rating of each attribute in each RATING DIMENSION as *corresponding data value from the retrieved merchant information*, and personally score as *merchant overall score* as illustrated on pages 3-5 is *calculated by summing* all interim results as *weighted category scores*.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 39, BizRate teaches a method of ranking merchants in an online comparison system comprising:

*selecting a weighting factor, the weighting factors corresponding to merchant comparison information*

(As disclosed by BizRate, a user can customize his/her rating by selecting "CUSTOMIZED

Art Unit: 2168

RATING". This option allows the user to set his/her own weights for each of the 10 aspects of shopping and get a personally scored and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features). The ten aspects includes Product Information and On-Time Delivery... (BizRate, page 8, Depth: Detailed Reports on each Merchant). As shown in pages 13 and 14, the ten aspects or RATING DIMENSIONS are disclosed. As seen, each RATING DIMENSION includes *merchant comparison information*, e.g., was the product you ordered in stock (Y/N), if not, how soon will the product be available (1-3), and the user can *select a weighting factor*, e.g., Y/N or 1-3);

*entering a query specifying a product or service* (Page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information under category Apparel > Accessories as in page 3);

*retrieving merchant comparison information data from a database, the retrieved merchant comparison information data corresponding to the entered query, wherein the retrieved merchant comparison information excludes information obtained from surveys or specifying the opinion of a person* (As discussed above, by selecting the CUSTOMIZED RATING, RATING DIMENSION includes *merchant comparison information*, e.g., was the product you ordered in stock (Y/N), if not, how soon will the product be available (1-3), which is *retrieved from a database and corresponds to the entered query*, and *the merchant comparison information excludes previous survey information*);

*calculating a merchant overall score and ranking the merchants according to the calculated merchant overall score* (The CUSTOMIZED RATING allows the user to get a personally score as *merchant overall score*, and sorted list of merchants (BizRate, page 11, Customize your search using "Sort" or "Filter" features)).

Art Unit: 2168

BizRate does not explicitly teach the steps of *multiplying the selected weighting factor by a data value from the retrieved merchant information to calculate a weighted category score, and summing the weighted category scores to calculate the personally score as merchant score.*

Geller teaches a system and method that assists a user in selecting a product from multiple products (Geller, Abstract). The user is prompted to select a category. For the category selected, stored prompts are provided to the user, allowing the user to weigh the importance of each attribute (Geller, Col. 2, Lines 23-32). Attribute information of products includes name of a product, manufacturer, price, availability and other information (Geller, Col. 7, Lines 31-38). The provided prompts are questions relate to an attribute, and possible responses to a question describe two or more answers to a question, such as "Critical", "Very Important", "Fairly Important", "Not Very Important" or "Irrelevant", and may include a weight value for each possible answer. For example, "Critical" may have a weight of 4, "Very Important" may have a weight of 3, "Fairly Important" may have a weight of 2, "Not Very Important" may have a weight of 1 and "Irrelevant" may have a weight of 0 (Geller, Col. 7, Line 50-Col. 8, Lines 9). The weight for each attribute is multiplied by the evaluation rating for such attribute to produce an interim result. The sum of all such interim results for each product in the category is calculated to produce a product score (Geller, Col. 4, Lines 47-54). The product score is used to rank the product (Geller, Col. 8, Lines 35-40). As seen, obviously, the BizRate Customized Rating option can use the Geller procedure to calculate an interim result as *weighted category score by multiplying the selected weighting factor, e.g., Y/N or 1-3, by the evaluation rating for each attribute of each RATING DIMENSION as data value from the retrieved merchant information, and the personally score as merchant score as illustrated on pages 3-5 is calculated by summing all interim results as weighted category scores.*

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the Geller procedure in order to calculate the average score for each merchant.

Regarding claim 2, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, BizRate further discloses the step of *requesting information from a consumer relating to a potential consumer purchase* (BizRate, Search for a Particular Merchant or Browse by Product Category, page 1).

Regarding claim 3, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 2, BizRate further discloses the step of *providing the ranking to the consumer in response to the consumer's response to the request for information relating to a potential consumer purchase* (BizRate, pages 3-4).

Regarding claim 5, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, BizRate further discloses the step of *requesting weighting factor information from a consumer; and using the consumer entered weighting factor information in the calculation of the respective merchant data weight resultant value* (BizRate, page 11 and 3-5).

Regarding claim 6, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 1, Geller further discloses *the weighting factors sum to a predetermined value* (Geller, Col. 4, Lines 43-54).

Art Unit: 2168

Regarding claim 7, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 5, Geller further discloses *the weighting factors are balanced such that the weighting factors sum to a predetermined value* (Geller, Col. 4, Lines 43-54).

Regarding claim 15, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses *the weighting factors are chosen by the user from a preset grouping of weighting factors* (BizRate, pages 13-14).

Regarding claim 16, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses *the weighting factors are entered by the user* (BizRate, page 11).

Regarding claim 20, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *eliminating those merchants from the ranking where the merchant specific information is incomplete for that merchant* (BizRate, page 11).

Regarding claim 21, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 20, BizRate further discloses *the elimination occurs only for merchants whose merchant specific data is incomplete as compared to a predefined screening criteria* (BizRate, page 11).

Art Unit: 2168

Regarding claim 22, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 21, BizRate further discloses *the predefined screening criteria is received from the user* (BizRate, page 11).

Regarding claim 23, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *excluding from the ranking comparison information items not common to all merchants in the ranking* (BizRate, page 11).

Regarding claim 27, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *presenting the user with a list of merchant information categories; receiving user selected merchant information categories; and ranking merchants based upon the selected information categories* (BizRate, page 11 and 13-14).

Regarding claim 28, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 24, BizRate further discloses the step of *presenting the user with a list of merchant information categories; receiving user selected merchant information categories; and ranking merchants based upon the selected information categories* (BizRate, page 11 and 13-14).

Regarding claim 30, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 14, BizRate further discloses the step of *receiving category weighting factors from the user, wherein category weighting factors are applied to all*

Art Unit: 2168

*comparison information corresponding to the category in the merchant specific information; and ranking merchants according to the received category weighting factors* (BizRate, page 1 and 13-14).

Regarding claims 37 and 40, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claims 36 and 39, BizRate.com further discloses the step of *entering the weighting factors occurs prior to entering the query* (BizRate, page 3).

Regarding claims 38 and 41, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claims 36 and 39, BizRate further discloses the step of *entering the weighting factors is performed by a user, the user also entering the query* (BizRate, page 11).

Regarding claim 42, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 39, BizRate further discloses *the weighting factors is selecting from a list of weighting factors* (BizRate, pages 13-14).

Regarding claim 43, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the list of weighting factors corresponds to the merchant information* (BizRate, pages 13-14).

Regarding claim 44, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 39, BizRate further discloses *the selection is made from a drop down list of weighting factors* (BizRate, pages 13-14).

Regarding claim 45, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the user may modify the selected weighting factors to enter a weighting factor not included in the list of weighting factors* (BizRate, page 11).

Regarding claim 46, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the list of weighting factors is entered by a consumer* (BizRate, page 10).

Regarding claim 47, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 42, BizRate further discloses *the list of weighting factors is selected from a group of lists of weighting factors* (BizRate, pages 13-14).

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over BizRate [<http://web.archive.org/web/19981205082910/http://www.bizrate.com/>] in view of Geller et al. [USP 6,236,990 B1] and Guay [USP 6,321,218 B1].**

Regarding to claim 4, BizRate and Geller, in combination, teach all of the claimed subject matter as discussed above with respect to claim 3, but fail to disclose the step *excluding a merchant from the ranking when the merchant receives an aggregate score below said specified threshold*. Guay teaches the technique of excluding ranked query data from the ranking when the ranked data below a specified threshold (Guay, Col. 4, lines 40-55). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined



Art Unit: 2168

method of BizRate and Geller by including a threshold value for excluding the unsatisfied data in order to narrow down the search result.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

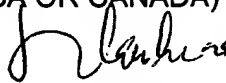
Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

Art Unit: 2168

would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HUNG Q PHAM

Examiner

Art Unit 2168

August 9, 2006



TIM VO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100